

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

KONINKLIJKE PHILIPS ELECTRONICS N.V. and U.S. PHILIPS CORPORATION,	:	
Plaintiffs,	:	
v.	:	Civil Action Nos.
CINRAM INTERNATIONAL INC., et al.,	:	08CV0515 (RGS)
THE ADS GROUP, et al.,	:	08CV4068 (RGS)
ENTERTAINMENT DISTRIBUTION COMPANY (USA) LLC, et al., and	:	08CV4070 (RGS)
OPTICAL EXPERTS MANUFACTURING INC., et al.	:	08CV 4071 (RGS)
Defendants.	:	ECF Case

DECLARATION OF GREGORY J. CARBO IN SUPPORT OF DEFENDANTS'

OPENING *MARKMAN* BRIEF CONCERNING U.S. PATENT 5,068,846

I, Gregory J. Carbo, Esq., do hereby declare as follows:

1. I am an attorney with the firm of Cooper & Dunham LLP, attorneys for defendants in the above-captioned matter. I am a member in good standing of the Bar of the State of New York and of this Court. I am over 18 years old, competent, and if called to testify as to the contents of this declaration, would do so truthfully. I submit this declaration in support of Defendants' Opening *Markman* Brief Concerning U.S. Patent 5,068,846.

2. Attached at **Exhibit 1** is a true and correct copy of U.S. Patent No. 5,068,846.

3. Attached at **Exhibit 2** is a true and correct copy of an Amendment dated July 19, 1979, in U.S. Patent Application Serial No. 05/949,919, filed October 10, 1978.

The notation "FH 0492" refers to the numbering on the bottom left side of documents from the file history of U.S. Patent No. 5,068,846, for Exhibits 2-5 and 7-12.

4. Attached at **Exhibit 3** is a true and correct copy of a Supplemental Amendment Under Rule 116 dated August 8, 1978, in U.S. Patent Application Serial No. 05/772,914, filed February 28, 1977.

5. Attached at **Exhibit 4** is a true and correct copy of the application for U.S. Patent Application Serial No. 05/344,867, filed March 26, 1973.

6. Attached at **Exhibit 5** is a true and correct copy of an Amendment dated January 24, 1978, in U.S. Patent Application Serial No. 05/772,914, filed February 28, 1977.

7. Attached at **Exhibit 6** is a true and correct copy of U.S. Patent No. 3,665,425.

8. Attached at **Exhibit 7** is a true and correct copy of an Amendment Under Rule 116 dated July 24, 1978, in U.S. Patent Application Serial No. 05/772,914, filed February 28, 1977.

9. Attached at **Exhibit 8** is a true and correct copy of an Advisory Action dated August 8, 1978, in U.S. Patent Application Serial No. 05/772,914, filed February 28, 1977.

10. Attached at **Exhibit 9** is a true and correct copy of an Amendment dated April 14, 1982, in U.S. Patent Application Serial No. 06/146,554, filed May 5, 1980.

11. Attached at **Exhibit 10** is a true and correct copy of a Notice of Appeal and Appeal Brief, dated August 9, 1990, in U.S. Patent Application Serial No. 06/858,550, filed April 23, 1986.

12. Attached at **Exhibit 11** is a true and correct copy of a Preliminary Amendment dated February 24, 1977, in U.S. Patent Application Serial No. 05/772,914, filed February 28, 1977.

13. Attached at **Exhibit 12** is a true and correct copy of an Amendment dated October 1, 1981, in U.S. Patent Application Serial No. 06/146,554, filed May 5, 1980.

14. Attached at **Exhibit 13** is a true and correct copy of pp. 1535 and 2429 from Webster's Third International Dictionary, bearing a copyright notice dated 1993.

15. Attached at **Exhibit 14** is a true and correct copy of the file history for U.S. Patent No. 5,068,846, including the file histories for all patent applications to which the '846 Patent claims priority.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 1, 2009

/s/ Gregory J. Carbo
Gregory J. Carbo

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of October, 2009, I caused the foregoing **DECLARATION OF GREGORY J. CARBO IN SUPPORT OF DEFENDANTS' OPENING MARKMAN BRIEF CONCERNING U.S. PATENT 5,068,846** was served by email and first class mail, postage prepaid, on the following attorneys for plaintiffs, addressed as follows:

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